

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----x
EARL B. GARVIN,

Petitioner,

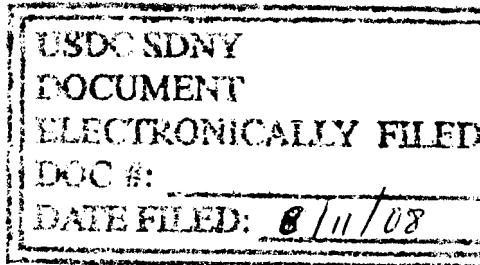
-v.-

ORDER

08 Civ. 5285 (PAC)(FM)

DALE ARTIST,

Respondent.

-----x
FRANK MAAS, United States Magistrate Judge.

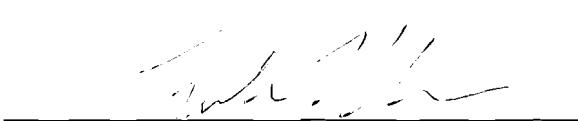
EARL B. GARVIN has petitioned this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. In accordance with Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, I have considered the petition preliminarily and direct that:

- (1) respondent file an answer or other pleading on or before November 10, 2008;
- (2) should respondent determine to serve an answer to the petition, the answer shall include transcripts of all relevant proceedings, the briefs submitted on appeal, the record in any state post-conviction proceedings, and such other information as may be necessary for this Court to ascertain whether petitioner has exhausted his state remedies;
- (3) petitioner shall have thirty (30) days from the date on which he is served with respondent's answer to file a response, and the petition will be considered fully submitted as of that date; and
- (4) should respondent determine to move with respect to the petition:
 - (a) the motion shall be served and filed on or before November 10, 2008.
 - (b) petitioner shall have thirty (30) days to serve and file any response to the motion; and
 - (c) should petitioner fail to serve and file any response to the motion, or fail to seek an extension of the time in which to do so, the Court shall consider respondents' motion to be unopposed.

The Clerk of the Court is directed to serve a copy of this Order, the underlying petition, and any documents filed in support of the underlying petition by Certified Mail, Return Receipt Requested, on counsel for respondent, Robert M. Morgenthau, District Attorney for New York County.

SO ORDERED.

Dated: New York, New York
August 7, 2008



FRANK MAAS
United States Magistrate Judge

Copies to:

Honorable Paul A. Crotty
United States District Judge

Earl B. Garvin
03-A-3850
Clinton Correctional Facility
P.O. Box 2001
Dannemora, New York 12929

District Attorney's Office
New York County
One Hogan Place
New York, New York 10013

J. Michael McMahon
Clerk of the Court